

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of)	MM Docket No. 92-195
)	
Amendment of Section 73.202(b),)	RM-7091
Table of Allotments,)	RM-7146
FM Broadcast Stations.)	RM-8123
(Beverly Hills, Chiefland, Holiday,)	RM-8124
Micanopy, and Sarasota, Florida))	

TO: The Commission

RECEIVED
MAY 11 0 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

PROTECTIVE STATEMENT FOR THE RECORD

1. Dickerson Broadcasting, Inc. ("Dickerson"), licensee of Station WEAG-FM, Starke, hereby advises the Commission of the following matters relative to the above-captioned proceeding.

2. Dickerson is a party to the above-captioned proceeding, having sought timely reconsideration of the staff's original action (which is reported at 8 FCC Rcd 2197 (Allocations Branch 1993)). Dickerson's petition for reconsideration was denied and, on January 7, 1994, pursuant to Section 1.115 of the Commission's Rules, Dickerson filed a timely application for review of that decision. By Memorandum Opinion and Order, DA 96-403, released April 16, 1996, the Chief, Policy and Rules Division ("PRD"), dismissed Dickerson's application for review without addressing any of the arguments set out therein. As a result, those arguments have not heretofore been considered by the full Commission.

3. In Dickerson's view, the PRD Chief's dismissal of Dickerson's application for review was erroneous for a number of reasons (not the least of which is the fact that the PRD Chief

No. of Copies 049
List AD009


does not appear to have delegated authority to act on applications for review, see Section 0.283(b)(3) of the Commission's Rules). However, since the rationale (such as it is) of the PRD Chief's decision could not have been known by Dickerson before the decision was issued, Dickerson has not previously had any opportunity to present argument to the PRD Chief concerning the flaws in that rationale. Some such presentation appears to be a prerequisite to seeking review of the matter by the full Commission, see Section 1.115(c) of the Rules. Accordingly, simultaneously herewith, Dickerson is submitting a petition for reconsideration of the PRD Chief's decision.

4. Dickerson is submitting the instant Protective Statement for the Record to put the Commission on notice of Dickerson's understanding that the PRD Chief's dismissal of Dickerson's application for review has effectively prevented the presentation of that pleading to the full Commission for its consideration. As a result, Dickerson does not understand the PRD Chief's action to be an order of the Commission from which any appeal to the U.S. Court of Appeals may presently be taken, nor does the PRD Chief's action constitute any disposition on the merits of Dickerson's application for review.

5. Dickerson intends to pursue all substantive and procedural arguments available to it. In particular, Dickerson intends to preserve -- and believes that it has, in fact, already preserved -- for further appeal the arguments which are set forth

in its application for review. Because of the unusual posture of this case arising from the PRD Chief's action, Dickerson is seeking reconsideration of the dismissal of the application for review at the staff level. However, that effort should not be construed as any abandonment of the arguments which Dickerson has timely presented and which have not yet been addressed, much less resolved, by the Commission. Upon resolution of the reconsideration concerning the PRD Chief's dismissal of Dickerson's application for review, Dickerson will pursue any further administrative review which may be necessary and appropriate. In so doing, Dickerson specifically reserves the right to rely on arguments (including those presented in Dickerson's January, 1994 application for review) which have not yet been substantively considered by the Commission.

Respectfully submitted,


/s/ Harry F. Cole
Harry F. Cole

Bechtel & Cole, Chartered
1901 L Street, N.W.
Suite 250
Washington, D.C. 20036
(202) 833-4190

Counsel for Dickerson Broadcasting,
Inc.

May 10, 1996

CERTIFICATE OF SERVICE

I, Harry F. Cole, hereby certify that on this 10th day of May, 1996, I caused copies of the foregoing "Protective Statement for the Record" to be placed in the U.S. Postal Service, first class postage prepaid, or hand delivered (as indicated below), addressed to the following persons:

Douglas W. Webbink, Chief
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W. - Room 8010
Washington, D.C. 20554
(By Hand)

A. Wray Fitch, Esquire
Gammon & Grange, P.C.
8280 Greensboro Drive - 7th Floor
McLean, Virginia 22102-2807
Counsel for Heart of Citrus, Inc.

David D. Oxenford, Jr., Esquire
Fisher, Wayland, Cooper & Leader
2001 Pennsylvania Avenue, N.W. - Suite 400
Washington, D.C. 20006-1851
Counsel for Gator Broadcasting Corporation

Michael H. Bader, Esquire
Haley, Bader & Potts
4350 N. Fairfax Drive - Suite 900
Arlington, Virginia 22203-1633
Counsel for Sarasota FM, Inc.

Dennis F. Begley, Esquire
Matthew H. McCormick, Esquire
Reddy, Begley & McCormick
1001 22nd Street, N.W. - Suite 350
Washington, D.C. 20037
Counsel for Pasco Pinellas Broadcasting Co.

Peter Guttmann, Esquire
Pepper & Corazzini
1776 K Street, N.W. - Suite 200
Washington, D.C. 20006
Counsel for White Construction Co., Inc.

John M. Spencer, Esquire
Leibowitz & Spencer
One Southeast Third Avenue - Suite 1450
Miami, Florida 33131
Counsel for Highland Media Company, Inc.

Irving Gastfreund, Esquire
Kaye, Scholer, Fierman, Hays & Handler
901 - 15th Street, N.W. - Suite 1100
Washington, D.C. 20005
Counsel for Roper Broadcasting, Inc.
and WGUL-FM, Inc.

Robert J. Rini, Esquire
Evan D. Carb, Esquire
Rini & Coran, P.C.
1350 Connecticut Avenue, N.W. - Suite 900
Washington, D.C. 20036
Counsel for Women in FLA Broadcasting, Inc.

Donald P. Zeifang, Esquire
Baker & Hostetler
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Counsel for Ocala Broadcasting Corporation

/s/


Harry F. Cole
Harry F. Cole